

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

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In the Matter of )  
Implementation of Section 621(a)(1) of )  
the Cable Communications Policy Act of 1984 ) MB Docket No. 05-  
311  
as amended by the Cable Television Consumer )  
Protection and Competition Act of 1992 )

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**COMMENTS OF FOXBORO CABLE ACCESS, INC.**

These Comments are filed by Foxboro Cable Access, Inc. ("FCA") in support of the comments filed by the Alliance for Community Media ("Alliance"), the Alliance for Communications Democracy, the National Association of Telecommunications Officers and Advisors ("NATOA"), and other national local government organizations. Like the Alliance, Foxboro Cable Access, Inc. believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about the benefits of cable franchising and the Public, Educational, and Government Access ("PEG") services in our community.

**Cable Franchising in Our Community**

**Community Information**

Foxborough is a town with a population of 16,800. Our franchised cable provider is Comcast Corporation. Our community has negotiated cable franchises since 1982.

**Our Current Franchise**

Our current franchise began on December 22, 1998 and expires on November 30, 2008.

Our franchise requires the cable operator to pay a franchise fee to the Town of Foxboro in the amount of 4.5% of the cable operator's gross revenues. The

revenues for franchise fee purposes are calculated based on the gross revenues of the operator, in accordance with the Federal Cable Act.

Our franchise requires the cable operator to provide the following capacity for public, educational, and/or governmental ("PEG") access channels on the cable system. We currently have one channel devoted to public access; one channel devoted to educational access; and one channel devoted to government access.

Our franchise requires that our PEG channels be supported in the following ways by the cable operator:

- Provide three residential subscriber network channels for PEG Access purposes.
- Provide annual funding to the access corporation for access purposes equal to four and one-half percent (4.5%) of gross annual revenues.
- Provide a one time payment in the amount of \$184,000 to be used for the purchase of equipment and facilities.

Our franchise allows for capital support for PEG Access and other public interest services in a one-time payment of \$184,000. This financial support allows FCA to purchase the necessary video production equipment for community members to produce programming of local interest. In particular, FCA was able to use this capital funding to purchase a remote production truck that is used by the community for approximately 600 hours each year. Additionally this capital funding allows for upgrades and replacement studio equipment as well.

Our franchise contains the following institutional network ("I-Net") requirements:

- The licensee shall operate, maintain and repair its existing 330Mhz Institutional Network (I-Net) to be utilized by the town
- The licensee shall make available five (5) upstream channels and five (5) downstream channels on the I-Net
- These 5 I-Net channels shall be capable of distributing video, audio, and data to all designated non-school and school buildings currently connect to the I-Net

We use our I-Net facilities in the following ways:

- Transmission of the FCA community channels; public, educational, and government to the head-end for distribution on the residential system.

- Special “live” FCA cablecasts of community events and other activities on the PEG channels from designated locations within the community where an I-net drop has been installed.
- The Foxboro Public Schools use the I-Net to send data between the five school buildings in town. The electronic data includes computerized student records, attendance information and email.

Our franchise contains requirements for emergency audio alerts on the subscriber network. The channels must be capable of being overridden remotely by the issuing authority through the use of any touch-tone telephone. This is done at no charge to the issuing authority.

These emergency alert requirements provide an important avenue of communication with our residents in the event of an emergency.

### **PEG Access Services**

Foxboro Cable Access, Inc. has provided access services in our community for twenty-three (23) years. The number of access channels we operate is three. In our most recently completed fiscal year, Foxboro Cable Access, Inc. provided 254 hours of new original local programming to the cable subscribers. The community used our equipment and facilities for more than 3200 hours. Below are the highlights of our services to the community.

- Video bulletin board with text and graphics for community announcements. FCA has received numerous industry awards for the quality of this community resource.
- Coverage of community forums, board of selectmen meetings, and school committee meetings.
- In December 1999 FCA was able to save the Town of Foxboro a substantial amount of money by providing two-way audio and video coverage of the largest town meeting in the history of the town. With approximately 2,334 town voters in attendance, five meeting rooms were all connected together in a videoconference style using resources provided by Comcast, the Foxboro Public Schools and Foxboro Cable Access.
- Community-produced television programming for special interests such as - seniors, non-English-speaking, ethnic and cultural groups, youth, people with disabilities, advocacy groups, and health care, etc.

- Dedicated channel capacity specifically for non-profit organizations to air locally-produced programming.
- Dedicated channel capacity specifically for religious organizations to air locally-produced programming.
- Grants to produce community programming.
- Community Enrichment Grant.
- Media literacy and production training for neighborhood based community organizations and individuals.
- Video production courses.
- Video production facilities including studio, field, editing, and remote van.
- Support to Media Training Centers in local schools, enhancing learning opportunities for students.
- Annual scholarship to students pursuing a career in a Media related field.
- Satellite program reception and redistribution.
- Technical design, installation, and maintenance support.
- Local political coverage, candidate platform statements and candidate debates during campaign season.
- Unique non-local programming available via satellite feed such as Classic Arts Showcase and NASA mission coverage.
- Election night coverage.

### **The Franchising Process**

Under the law, a cable franchise functions as a contract between the local government (operating as the local franchising authority) and the cable operator. Like other contracts, its terms are negotiated. Under the Federal Cable Act it is the statutory obligation of the local government to determine the community's cable-related needs and interests and to ensure that these are addressed in the franchising process – to the extent that is economically feasible. However derived (whether requested by the local government or offered by the cable operator), once

the franchise is approved by both parties the provisions in the franchise agreement function as contractual obligations upon both parties.

### **Competitive Cable Systems**

Our community has never been approached by a competitive provider to provide service.

### **Conclusions**

This NPRM is only looking retrospectively at one aspect of the franchising process. We believe that the Commission must look to the future of the public's interest in telecommunication's services. The existing franchising process has provided a basis for public interest services appropriately tailored to each community's local needs. We believe that those services such as PEG should be required of all broadband telecommunications providers.

The local cable franchising process has functioned well in The Town of Foxborough. As the above information indicates, we are experienced at working with cable providers, the local franchise authority, and community interests to both see that the needs of the local community are met and to ensure that the practical business needs of cable providers are taken into account.

Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. Local cable franchising also ensures that our local community's specific needs are met and that local customers are protected.

Local franchises can also ensure that the cable operator provides the PEG Access services which are responsive to the local community needs as determined through community needs assessments and the local knowledge of educators, local elected officials and local nonprofit organizations.

Local franchises thus provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. There is no need to create a new Federal bureaucracy in Washington to handle matters of primarily local interest.

Local franchises allow each community, including ours, to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be available to meet local needs. These factors are equally present for new entrants as for existing users.

The Foxboro Cable Access, Inc. therefore respectfully requests that the Commission take this opportunity to reaffirm the primacy of local government authority over franchising and should make clear that imposition on a new entrant of PEG Access, consumer protections and other public interest services requirements that are equivalent to those of the incumbent does not constitute an unreasonable refusal to award an additional competitive franchise within the meaning of federal law..

The PEG Access model should be strengthened and applied to new technologies, assuring that localism and community participation are not displaced by commercial interests.

The nation would be well served by a policy of “Community Reinvestment” through PEG Access that includes funds and bandwidth and/or spectrum that will be used for public purposes by:

1. Allowing the local community which owns the public rights-of-way to franchise and determine the best use of the community’s property;
2. Dedicating ten percent of the public airwaves and capacity on communication facilities that occupy public rights-of-way to PEG use for free speech, diverse points of view, local programs, community based education and political speech;
3. Mandating funding of five percent of gross revenues above and beyond any franchise fee to local authorities from all infrastructure and service providers and spectrum licensees to support PEG equipment, facilities, training and services; and,
4. Making PEG Access universally available to any consumer of advanced telecommunications services capable of full-motion video.

Respectfully submitted,

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cc: Board of Selectmen, Town of Foxboro  
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